

Remarks:

Applicant has read and considered the Office Action dated October 28, 2009 and the references cited therein. Claim 1 has been amended. Claims 1-12 are currently pending. Reconsideration is hereby requested.

In the Office Action, claims 1, 2, 4-10 and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Lester or in the alternative, as being rejected under 35 U.S.C. § 103(a) as being obvious over Lester. Moreover, claims 3 and 11 were also rejected under 35 U.S.C. § 103(a) as being obvious over Lester.

Lester discloses an inhalation therapy device with a nozzle element labeled as air nozzle 14 on which a bulbous-type connector 31 is attached for connecting an air pressure hose. The spray nozzle 15 of Lester is permanently attached to an outer casing of the device, referred to as a bowl. Lester describes a spray nozzle 15 at column 3, lines 10-14 as bowls "Extending upward on the inside of the bowl 11 from its lower end is a slightly tapered-tubular spray nozzle 15, preferably formed integrally with the bowl 11."

Moreover, the inner nozzle 14 is also permanently attached to the outer casing as recited at column 3, lines 61-70. "A shoulder 32 of the nozzle 14 is preferably proportioned to seat upon the lower end of the bowl 11, for positioning the nozzle 14 and firmly supporting it in its correct relationship to the spray nozzle 15. As depicted in the drawings, the shoulder 32 is relatively wide and, consequently, gives sturdy, firm support. This results in a very strong union of parts, in fact, one which is practically indestructible, and so substantially eliminates the danger of nozzle fracture commonly encountered with other nebulizing devices."

Finally, Lester again describes the assembly of the system with the nozzles 14 and 15 being permanently configured as part of the Nebulizer at column 5, lines 5-12. "Assembly-wise,

since the spray nozzle 15 is molded integrally with the bowl 11, its position is established at the outset. When the air nozzle 14 is inserted into the spray nozzle 15, the broad mounting shoulder 32 securely and properly positions the nozzle 14. The use of a small amount of adhesive or other plastic joining material quickly and securely unites all the parts into one durable unit.”

From the description of Lester, it is clear that a spray nozzle and air nozzle are not detachable and movable to expose channels between the spray nozzle and the air nozzle.

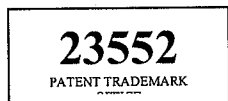
Claim 1 has now been amended and recites the aerosol generator comprises a nozzle element and at least one channel extending between the nozzle element and a member. Claim 1 further recites that the member is removable to expose the at least one channel. As discussed above, the spray nozzle and air nozzle are permanently affixed as part of the nebulizer in Lester. Therefore, Lester neither teaches nor suggests any sort of removable member that allows for cleaning of the channels. The present invention provides for easily cleaning the nozzle element without causing any damage to sensitive parts that are critical to create the proper aerosol delivery. With prior art devices, the important geometries may be adversely affected through cleaning by patients who are unaware of the consequences of their actions. The removable member provides for easily and thoroughly cleaning the nozzle element and the ability to remove particles tightly adhering to the exposed surfaces by use of cleaning brushes or cloths. Applicants assert that this is not possible or even suggested by Lester or any other prior art or combination thereof. It should be noted that Lester does not provide for cleaning of any of the inner nozzle as all parts are affixed to one another. Therefore, the Lester device is likely disposed of rather than being cleaned as is possible with the devices of the present application and as recited in claim 1.

Applicants assert that claim 1 recites nonobvious differences that are not possible with Lester or obvious in view of Lester. Applicants therefore assert that claim 1 patentably distinguishes over Lester. Moreover, the claims depending there from also patentably

distinguish over Lester for at least the same reasons as well as others. Applicants request that the rejections over Lester be withdrawn.

A speedy and favorable action in the form of a Notice of Allowance is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicant's representative at (612) 336-4728.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725.



Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: _____

3/1/10

By: _____

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